

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MUZAFFER I. ATA,

Defendant-Appellant.

UNPUBLISHED

July 13, 1999

No. 206341

Recorder's Court

LC No. 97-000117

Before: Zahra, P.J., and Saad and Collins, JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial convictions for first-degree murder, MCL 750.16; MSA 28.548, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). The Court sentenced defendant to mandatory life imprisonment for the first-degree murder conviction, and a consecutive two-year term for the felony-firearm conviction. We affirm.

Defendant argues that there was insufficient evidence of premeditation and deliberation to support his first-degree murder conviction. We disagree. When determining whether sufficient evidence has been presented to sustain a conviction, a court must view the evidence in the light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515-516; 489 NW2d 748 (1992), amended on other grounds 441 Mich 1201 (1992).

To prove first-degree, premeditated murder, the prosecution must establish that the defendant intentionally killed the victim and that the killing was premeditated and deliberate. *People v Schollaert*, 194 Mich App 158, 170; 486 NW2d 312 (1992). Premeditation and deliberation require sufficient time to allow the defendant to take a "second look," and may be inferred from circumstances surrounding the killing. *People v Anderson*, 209 Mich App 527, 537; 531 NW2d 780 (1995). A sufficient time lapse to provide an opportunity for a second look may be merely seconds, or minutes, or hours or more, depending on the circumstances surrounding the killing. *People v Meier*, 47 Mich App 179, 191-192; 209 NW2d 311 (1973). The factors from which premeditation and deliberation may be inferred include motive, prior relationship, organized conduct prior to or subsequent to the killing suggesting the existence of a plan, weapons used, and the actions of the killer before and after the crime.

People v Youngblood, 165 Mich App 381, 387; 418 NW2d 472 (1988); *People v Kvam*, 160 Mich App 189, 193; 408 NW2d 71 (1987).

Here, defendant argued with the decedent's mother and sister at the home where decedent lived shortly before the shooting. Defendant felt humiliated by the decedent's attempts to quiet down the argument and believed decedent had a gun. Defendant left decedent's house and walked around a field to get to his apartment rather than running through the field. Defendant returned to decedent's house two or three minutes later with a loaded gun he had at his apartment. Defendant fired shots at the top of the house and then pointed the gun at decedent's mother but did not shoot her. Defendant then saw decedent in the doorway and fired at least five shots at him. Decedent died from multiple gunshot wounds, including a shot to the head.

Defendant argues that he was in a rage after arguing with decedent's mother for approximately twenty minutes and that his rage had not dissipated in the two or three minutes he was gone to establish premeditation and deliberation. We disagree. As noted above, even seconds may be enough for a second look to establish premeditation and deliberation. *Meier, supra*.

Moreover, the trial court specifically found that the killing was deliberate, stating in pertinent part:

The defendant did have time certainly to consider the pros and cons of his actions in that he did think about and choose his actions before he did it [*sic*].

I have already indicated on the record I think in exhaustive detail about why I think that: Leaving the house, walking, going upstairs, getting the gun, coming back, and ultimately firing the gun at the person that he felt had wronged him in some way.

I am making a finding that there was real and substantial reflection for long enough to give a reasonable person a chance to think twice about the intent to kill. And, of course, I am making the finding that this killing was not the result of a sudden impulse without thought or reflection.

Therefore, reviewing the evidence in a light most favorable to the prosecution, we find there was sufficient evidence presented at trial from which a rational trier of fact could find that premeditation and deliberation were proven beyond a reasonable doubt. *Wolfe, supra*.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Jeffrey G. Collins